used the term *"Christian"* names inadverently for *individual* names —the latter being the form in which the rule as to partners as defendants is usually expressed. If every judgment in Virginia, docketed only in the initialed surname of the defendant, instead of the Christian name, is to be regarded as undocketed, as the Court declares, the situation is indeed a serious one, and calls for prompt legislative intervention.

The probabilities are that more than one-half of the judgments and decrees standing today on the records of the Virginia courts do not indicate the Christian names of the defendants, but the initials only. If the Appellate Court means to cure the members of the bar of a bad habit (as one might well wish), it should hold them only for future conduct, after full notice. Perhaps this judicial outgiving may serve as such notice.

W. M. LILE.

INTEREST—INTEREST AS DAMAGES FOR NON-PAYMENT OF INTEREST DUE BY CONTRACT.—The rule early established in Virginia [1] and lately reaffirmed in the case of *Blanchard* v. *Dominion National Bank* [2] is that where, by the terms of a contract, interest falls due at a fixed date, and remains unpaid, there can be no recovery of interest by way of damages for such non-payment.[3] The decisions which establish this rule in Virginia do so arbitrarily. No sound basis for the holding is given; and we believe that there is none.

Interest upon interest is called "compound interest". Compound interest is not favored in the law, and so is not generally recoverable. The disallowance proceeds, not upon the ground of usury, but from motives of public policy, because of its harsh and oppressive character. It is not usury unless it exceeds the legal rate, but it tends toward usury.[4]

Though this is a well established principle, it admits of several equally well established exceptions. The better opinions refuse to enforce the rule when the reason for it disappears. The question, as confined to the instant case, comes down to this: Is it oppressive, does it tend toward usury, to allow simple interest by way of damages for non-payment of interest when due?

Clearly the answer is No. When an installment of interest falls due it becomes a simple debt. And it is axiomatic that justice de-

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[1] Fultz *v.* Davis, 26 Gratt. 903 (1875). See Childers *v.* Deane, 4 Rand. 406 (1826).

[2] 108 S. E. 649 (1921).

[3] Whether an agreement between the parties to pay such interest would alter the rule has never been finally settled in this State, though *dicta* can be found indicating that under certain circumstances such an agreement would be held enforceable. See Blanchard *v.* Dominion Nat'l Bank, *supra*.

[4] HALE ON DAMAGES, p. 263.

mands payment for the retention and use of the funds of another In a leading case on the subject the court said:

> "Call it interest, rent or hire, it becomes a debt at the time the party promised to pay it, and from that time he is using the money of the creditor or the landlord or the bailor, and ought to pay for it, unless he be allowed to take advantage of his own wrong in not making payment at the day." [5]

Does not interest bear the same relation to the principal loaned as the hire for a horse bears to the horse? Who would contend that a liveryman is not entitled to interest upon such hire if payment is not made when due? Is it oppressive or is it simply just to award it? Interest has been awarded upon defaulted installments of the hire of slaves.[6] And the decision seems irreproachable. How distinguish this from the hire of money?

Nor is it strictly accurate to say that simple interest by way of damages for non-payment of interest is compound interest. It is interest upon a debt past due. Only if the interest due as damages were itself made to bear interest could it be said that compound interest was awarded. It is safe to say that this would never be done.

The rule established by the better decisions and the sounder reasoning may be thus summed up: *Interest on the principal bears simple interest from the time it falls due until it is paid. But in no case can any part of the interest upon interest be made to bear interest.*[7]

The different view maintained in Virginia not only avoids harshness to the debtor but goes the length of oppressing the creditor.

J. E. R.

THE EXISTENCE OF A LEGAL REMEDY NO LONGER A BAR TO INJUNCTION OF ILLEGAL TAXES.—Prior to the year 1916, the law of Virginia, as fixed by a long line of decisions, was to the effect that a court of equity had concurrent jurisdiction with a court of law over the question of illegal tax assessments.[1] The fact that an adequate remedy at law was available to the tax-payer was held no bar to injunctive relief.[2] Naturally it became a frequent occurrence for the validity of an assessment to be tried in the equity courts in proceedings for an injunction. And this was true even where the plaintiff, had he paid the tax and gone into a court of law, might have had complete justice done him there.[3]

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[5] Bledsoe *v.* Nixon, 69 N. C. 89, 12 Am. Rep. 642 (1873).
[6] Hoyle *v.* Jones, 35 Ga. 40, 89 Am. Dec. 273 (1866).
[7] Anketel *v.* Converse, 17 Ohio St. 11, 91 Am. Dec. 115 (1866).
[1] Goddin *v.* Crump, 8 Leigh 120 (1837); City of Richmond *v.* R. & D. R. Co., 21 Gratt. 604 (1872); Schoolfield *v.* City of Lynchburg, 78 Va. 366 (1884); Wytheville *v.* Johnson, 108 Va. 589, 62 S. E. 328 (1908).
[2] Wytheville *v.* Johnson, *supra.*
[3] See Va. Code 1904, §§ 567-573, inclusive (V. C. 1919, § 2385, *et seq.*).